

### REMARKS/ARGUMENTS

The written description has been amended to conform to the amended claims and overcome the specific objections made to the disclosure at pages 23, 24, and 26.

In the drawings, the numbers 6 indicating area 6, and 16a indicating camera 16a are added to Fig. 1 as requested; the cover pivot axis 79 and pivot location housing mean 79a have been added in Fig. 11 for clarification; and the incorrect lead line for numeral 79 is deleted and the upper pivot axis of the upper end section of piston mechanism 77 has been clarified in Fig. 14.

The foregoing changes to the drawings adds no new matter and their approval is requested.

Claims 6, 12, 13, 24, and 34 are cancelled without prejudice or disclaimer of the subject matter contained therein. The substance of claim 24 has been incorporated into claim 19, which is therefore allowable along with its dependent claims 20-23 and 25-26.

The indication that claims 2, 7, 9-10, 14, 23-25, 29-30, 32,35, 37-38, and 41 contain allowable subject matter is gratefully acknowledged.

The remaining claims are amended to more particularly point out and distinctly claim the invention under 35 U.S.C. § 112, second paragraph, and to thereby overcome the examiner's specific rejections under 35 U.S.C. § 112, second paragraph. The invention of claims 1-10 is directed to a top-loading container for collecting, storing, and transporting bulk material. The container comprises sidewall means, a bottom portion, and a cover portion. The sidewall means defines a load-carrying receptacle and includes an upwardly facing top peripheral edge section having an open top. Sidewall connecting means pivotally mounts the cover portion to the sidewall means at a first of two pivot locations which are disposed outside of the receptacle and downwardly

spaced from the peripheral edge section. The sidewall connecting means is effective to freely move the cover portion independent of said top peripheral edge section between a closed top position and an open top position.

The sidewall connecting means includes cover actuating means, cover extension means having two ends, and at least one connecting member having two ends. The cover extension means is fixedly mounted at one end thereof to the cover portion, and fixedly mounted at the other end thereof to one end of the connecting member. In turn, the other end of the connecting member is pivotally connected to the sidewall means at a first of the two pivot locations. In the elected embodiment, the first of the two pivot locations is designated 79 in Figures 11-15.

The cover actuating means includes an upper end section and a lower end section. The upper end section is pivotally mounted to the cover extension means at an upper pivot axis (26 in Fig. 2; 36 in Fig. 3; and at the upper end of the hydraulic piston actuator in Figs. 11-15). The lower end section of the actuating means is pivotally mounted to the sidewall means at a lower pivot axis disposed at a second of said two pivot locations (29 in Fig. 2; 39 in Fig. 3; and at the lower end of the hydraulic piston actuator in Figs. 11-15). The lower pivot axis is spaced downwardly and outwardly from the first of said two pivot locations and outwardly from the sidewall means as shown in the drawings. The arrangement of this positioning of the two pivot locations allows the cover actuating means to move between an extended position and a retracted position wherein the cover portion moves ***independently of the top peripheral edge section*** and is in the closed top position when the cover actuating means is in an extended position, and the cover portion is in the open top position when the cover actuating means is in a retracted position.

The invention of the pivot arrangement allows the actuating means to move the cover portion as set forth in claim 1. The two pivot locations are downwardly spaced from the peripheral edge section with the lower pivot location being spaced downwardly and outwardly from the first of the pivot locations, and outwardly from the sidewall means. The pivot arrangement is not found in the prior art as discussed below.

The invention of claim 11 is directed to a cover portion that includes a downwardly extending section having a distal end portion pivotally connected at a cover pivot axis location downwardly spaced from said top peripheral edge section. The cover portion is mounted to freely move independently of the top peripheral edge section and connected to the actuating means to uncover and cover the open top of the load-carrying receptacle. The actuating means lifts the cover portion upwardly and freely out of contact with and away from the top peripheral edge section. The first end section of the actuating means is pivotally mounted to the downwardly extending section of the cover portion at an upper actuating pivot axis location. The second end section is pivotally mounted at a lower actuating pivot axis location that is spaced outwardly and downwardly from the cover pivot axis location. The cover portion and the actuating means are each pivotally mounted to the sidewall means outside of the receptacle and at the pivot axis locations that are downwardly spaced from the top peripheral edge section for freely moving the cover portion between an open top position out of contact with the top peripheral edge section and a closed top position when in contact with the top peripheral edge section.

The pivot arrangement of claim 11 is not found in the prior art as discussed below. Therefore this claim along with its dependent claims 15-18 are deemed allowable for the reasons set forth

below.

The invention of claim 27 is directed to sidewall connecting means including at least one connecting member and cover actuating means. The connecting means is effective to freely move the cover portion independent of said top peripheral edge section between a closed top position and an open top position. The connecting member has two ends and is fixedly mounted at one end thereof to the cover portion, and is pivotally connected at the other end thereof to the sidewall means at a first of said two pivot locations which are downwardly spaced from said peripheral edge section. The cover actuating means includes an upper end section that is pivotally mounted to the connecting member at an upper pivot axis, and a lower end section that is pivotally mounted to the sidewall means at a lower pivot location disposed at a second of said two pivot locations. The lower pivot location is spaced downwardly and outwardly from the first of said pivot locations and the sidewall means. The actuating means is effective to move between an extended position and a retracted position wherein the cover portion is in a closed top position when the cover actuating means is in an extended position, and the cover portion is in an open top position when the cover actuating means is in a retracted position.

The claim 27 linkage mechanism and pivot arrangement are not found in the prior art as discussed below. Furthermore, the claimed subject matter of claim 24 that the examiner deems allowable is in claim 27. For these reasons, claim 27 and its dependent claims 28-33 and 35-46 are deemed allowable.

***The Rejections and the Prior Art***

Claims 1 and 3-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hoch

3,913,969 ('969).

Claims 19-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hardwick 4,378,188 ('188).

Claims 1, 3, 5-6 11-13, 15-17, 27-28, 31, 33-34, 39-40, 42-44, and 46 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cuthbertson 5,498,066 ('066).

The Hoch Patent '969: Hoch discloses a sidewall connecting means that pivotally mounts the cover portion to the sidewall means with the '969 connecting member 40 that has two ends with one end thereof pivotally mounted at axis 42 to cover portion 39, and the other end thereof fixedly connected to the sidewall. The '969 cover portion "is hinged on a transverse axis disposed forwardly and upwardly of the upper front edge of the box portion of the body." See Col. 1, lines 54-57 of Hoch '969 with emphasis added. In contrast, Applicant's two pivot locations for its linkage mechanism are disposed downwardly spaced from the peripheral edge section of the box portion and his cover portion is pivotally mounted to his sidewall. The applicant's sidewall connecting means is effective to freely move the cover portion independent of said top peripheral edge section between a closed top position and an open top position. In comparison, the '969 sidewall connecting means 16 and 40 is fixedly mounted to its sidewall the top peripheral edge section of the box portion and thus makes movement of its cover portion completely *dependent* on its top peripheral edge section.

The applicant's pivot arrangement has two pivot locations that are downwardly spaced from the peripheral edge section with the lower pivot location being spaced downwardly and outwardly from the first of the pivot locations where his cover portion is pivotally mounted. The lower pivot location is spaced outwardly from the sidewall to allow the cover actuating means to move between

an extended position and a retracted position wherein the cover portion is in the closed top position when the cover actuating means is in an extended position, and the cover portion is in the open top position when the cover actuating means is in a retracted position. However, the '969 pivot arrangement does not allow the actuating means 16 to move the cover portion 34 as set forth in claim 1 and 3-5.

For these reasons, Applicant's claims 1 and 3-5 do not read on the Hoch '969 structure so that Hoch does not anticipate the invention of Applicant's claims as amended.

The Hardwick Patent '188: Applicant's claim 19 is amended to include the subject matter of claim 24 that the examiner deems allowable. For this reason, claims 19-23 and 25-26 are now allowable. The '188 connecting member 128 (Figs. 4 and 7) is fixedly connected to its base and pivotally connected to "a downwardly extending section" that is connected to the '188 cover portion. In contrast, the applicant's "downwardly extending member 75" is pivotally connected to the sidewall at a cover with the lower end section connected the lower actuating pivot axis in the recited pivot axis locations of the first and second vertically disposed, parallel planes.

The Cuthbertson Patent '066: The '066 lifting mechanism (108, 110, and 112) and pivoting arrangement (85) is **dependent** on the top peripheral edge section and pivotally moves the cover portion while attached to its top peripheral edge section. The '066 means 85 "are provided for pivotally connecting the articulated cover to the container portion adjacent the upper edge of the front wall thereof. As is further illustrated in FIG. 2, the means 85 for connecting includes an at least one bracket 86, in this embodiment a pair of brackets 86, are secured to the upper front face of the front wall 28. The means 85 for connecting includes an at least one bracket, in this case a pair of

brackets 88, secured to the forward edge of the articulated cover 84 for mating engagement with the brackets 86. Also included are a pair of pins 89 which pivotally connects the brackets 86 and 88 to pivotally mount the cover to the container portion.” See ‘066 col. 3, lines 53-65 with emphasis added.

Moreover, the ‘066 lifting mechanism is on a separate cover extension 108 that is also attached to its top peripheral edge. The ‘066 structure includes a “pair of brackets 108 are secured in spaced relation along the forward edge of the forward portion of the articulated cover 84 and extend forwardly thereof. A complementary pair of laterally spaced brackets 110 are mounted on the front face of the front wall 28 of the container portion 26 in substantial alignment with and elevationally spaced from the brackets 108.” See ‘066 col. 4, lines 45-51 with emphasis added.

In contrast, Applicant’s claim 1 comprises sidewall connecting means that includes cover actuating means, cover extension means having two ends, and at least one connecting member having two ends. The cover extension means is fixedly mounted at one end thereof to the cover portion, and fixedly mounted at the other end thereof to one end of the connecting member. In turn, the other end of the connecting member is pivotally connected to the sidewall means at a first of the two pivot locations. This linkage structure does not read on the ‘066 structure as required by the 102(b) rejection based on anticipation. The applicant’s sidewall connecting means pivotally mounts the cover portion to the sidewall means at a first of two pivot locations which are disposed downwardly spaced from the peripheral edge section. The sidewall connecting means is effective to freely move the cover portion independent of said top peripheral edge section between a closed top position and an open top position. The applicant’s claimed pivoting arrangement does not read on

the '066 structure as required by the 102(b) rejection based on anticipation. The applicant's claimed lower pivot axis of the cover actuating means is spaced downwardly and outwardly from the first of the two pivot locations and outwardly from the sidewall means as shown in the drawings. The pivot arrangement of the two pivot locations allows the cover actuating means to move ***independently of the top peripheral edge section*** between an extended position and a retracted position wherein the cover portion is in the closed top position when the cover actuating means is in an extended position, and the cover portion is in the open top position when the cover actuating means is in a retracted position.

Applicant's claim 11 includes a downwardly extending section having a distal end portion pivotally connected at a cover pivot axis location downwardly spaced from said top peripheral edge section. The '066 structure does not include such a downwardly extending section to which both the actuating means and distal end portion are pivotally connected. The applicant's first end section of the actuating means is pivotally mounted to the downwardly extending section of the cover portion at an upper actuating pivot axis location. The second end section is pivotally mounted at a lower actuating pivot axis location that is spaced outwardly and downwardly from the cover pivot axis location. So the applicant's cover portion is mounted to freely move independently of the top peripheral edge section. The applicant's actuating means lifts the cover portion upwardly and freely out of contact with and away from the top peripheral edge section. Applicant's claimed pivoting arrangement does not read on the '066 structure as required by the 102(b) rejection based on anticipation. So Applicant's claim 11 and its dependent claims 15-18 are allowable.

The examiner finds allowable applicant's claim 14 now written in independent form to



include the subject matter of former cancelled claims 11 and 12.

Applicant's claim 27 comprises sidewall connecting means including at least one connecting member and cover actuating means. The connecting means is effective to freely move the cover portion independent of said top peripheral edge section between a closed top position and an open top position. The connecting member has two ends and is fixedly mounted at one end thereof to the cover portion, and is pivotally connected at the other end thereof to the sidewall means at a first of the two pivot locations which are downwardly spaced from said peripheral edge section. The '066 patent discloses no such connecting structure. So Applicant's claimed connecting means does not read on the '066 structure as required by the 102(b) rejection based on anticipation. Therefore claim 27 and its dependent claims 28-33 and 35-46 are allowable.

The applicant's cover actuating means includes an upper end section that is pivotally mounted to the connecting member at an upper pivot axis, and a lower end section that is pivotally mounted to the sidewall means at a lower pivot location disposed at a second of the two pivot locations. The lower pivot location is spaced downwardly and outwardly from the first of said pivot locations and the sidewall means. The '066 structure does not include two pivot locations with a second of said pivot locations being lower than a first pivot locations so as to enable the cover portion to move independently with respect to the top peripheral edge section. The claim 27 linkage mechanism and pivot arrangement are therefore not found. For these reasons, claim 27 and its dependent claims 28-33 and 35-46 are deemed allowable.

***Withdrawn Claims 18, 26, and 45 Sealing Means***

Applicant specifically requests that the "sealing means" limitation of claims 18, 26, and 45

pertains to the embodiment of Figs. 11-15 in as much as they may be needed for the particular bulk material being gathered and transported using Applicant's invention. In his written description, Applicant makes specific reference to this fact.

“When the container is to be used for bulk materials that may blow or shake out of the receptacle, sealing means is disposed between the cover portion and the upwardly facing top peripheral edge section when the cover portion is in the closed top position.” See sentence bridging pages 10-11.

“When necessary, sealing means is disposed between the cover portion and the upwardly facing top peripheral edge section for preventing passage of material in or out of the receptacle between the cover portion and the top peripheral edge section when the cover portion is in the closed top position.” See sentence at page 15, lines 10-13.

“When necessary, sealing means is disposed between the cover portion and the upwardly facing top peripheral edge section when the cover portion is in the closed top position.” See sentence at page 11, lines 14-15.

In view of the foregoing, Applicant submits that non-elected claims 18, 26, and 45 should be rejoined with the application, and requests that these claims be allowed with their respective allowable independent claims.

***Withdrawn Claims 8 and 36 Fixed Barrier Means***

Applicant specifically requests that the fixed “barrier means” limitation of claims 8 and 36 are dependent from allowable claims 7 and 35 respectively and although these claims pertain to the embodiment of Figs. 8-9, they are species of the allowable generic claims from which they depend.

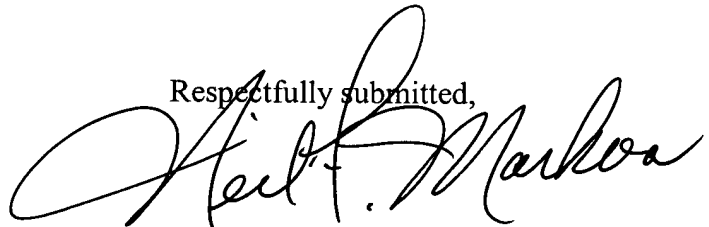
Therefore, it is appropriate that such non-elected claims be rejoined with the application and requests that these claims be allowed with their respective allowable independent claims.

***Summary and Conclusion***

The claims, written description, and drawings have been amended to overcome the examiner's specific objections and to further particularly point out and distinctly described and claim the invention under 35 U.S.C. § 112. With the foregoing amendments, the claims rejected under 35 U.S.C. § 102(b) do not read on any of the prior art references of Hoch '969; Hardwick '188; or Cuthbertson '066 so that the structural configurations of these references do not anticipate the claimed invention.

For the foregoing reasons, favorable reconsideration of the amended application and the rejections is respectfully requested and early allowance of the remaining claims in the application is earnestly solicited.

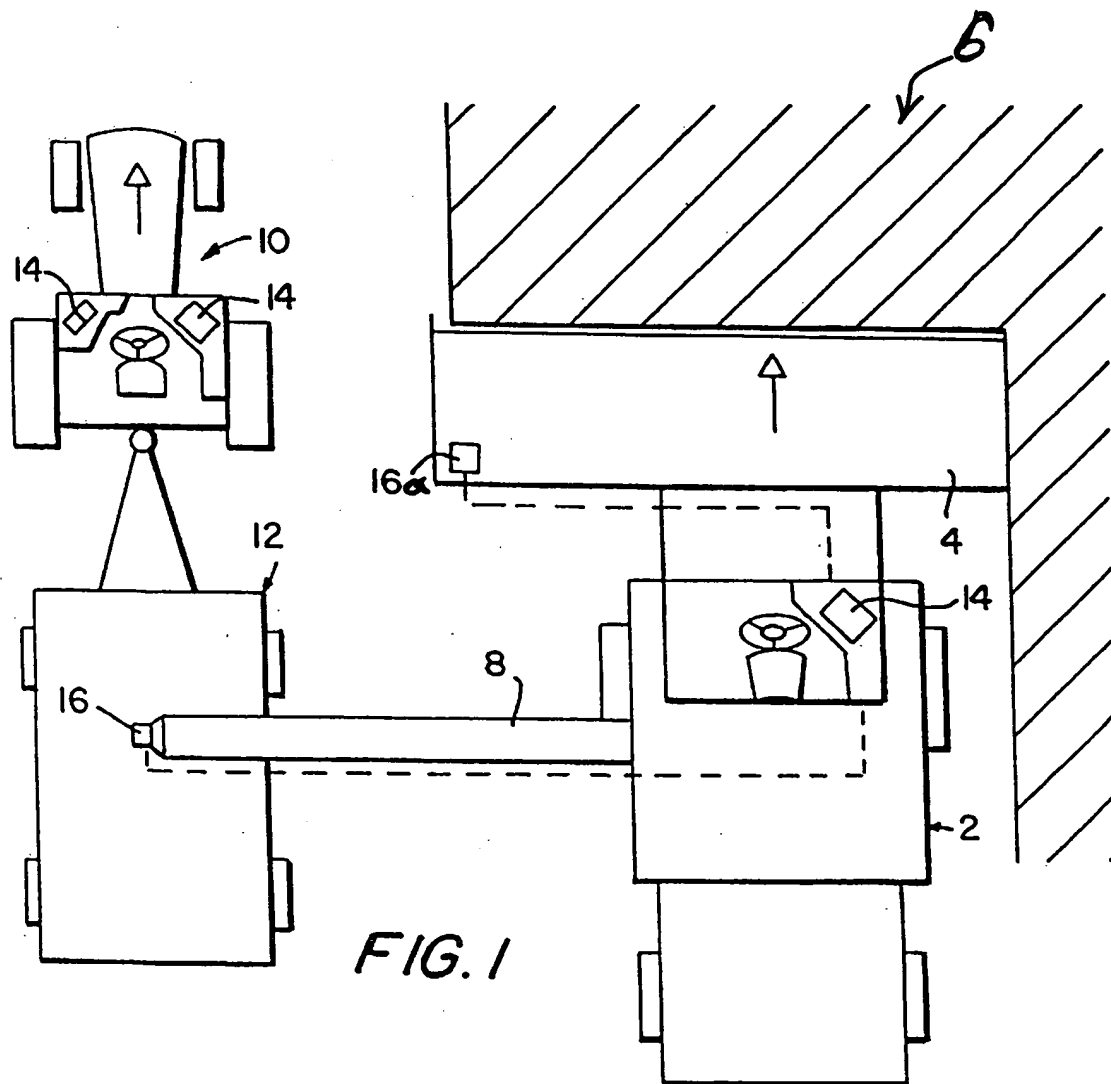
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Neil F. Markva", written in a cursive style.

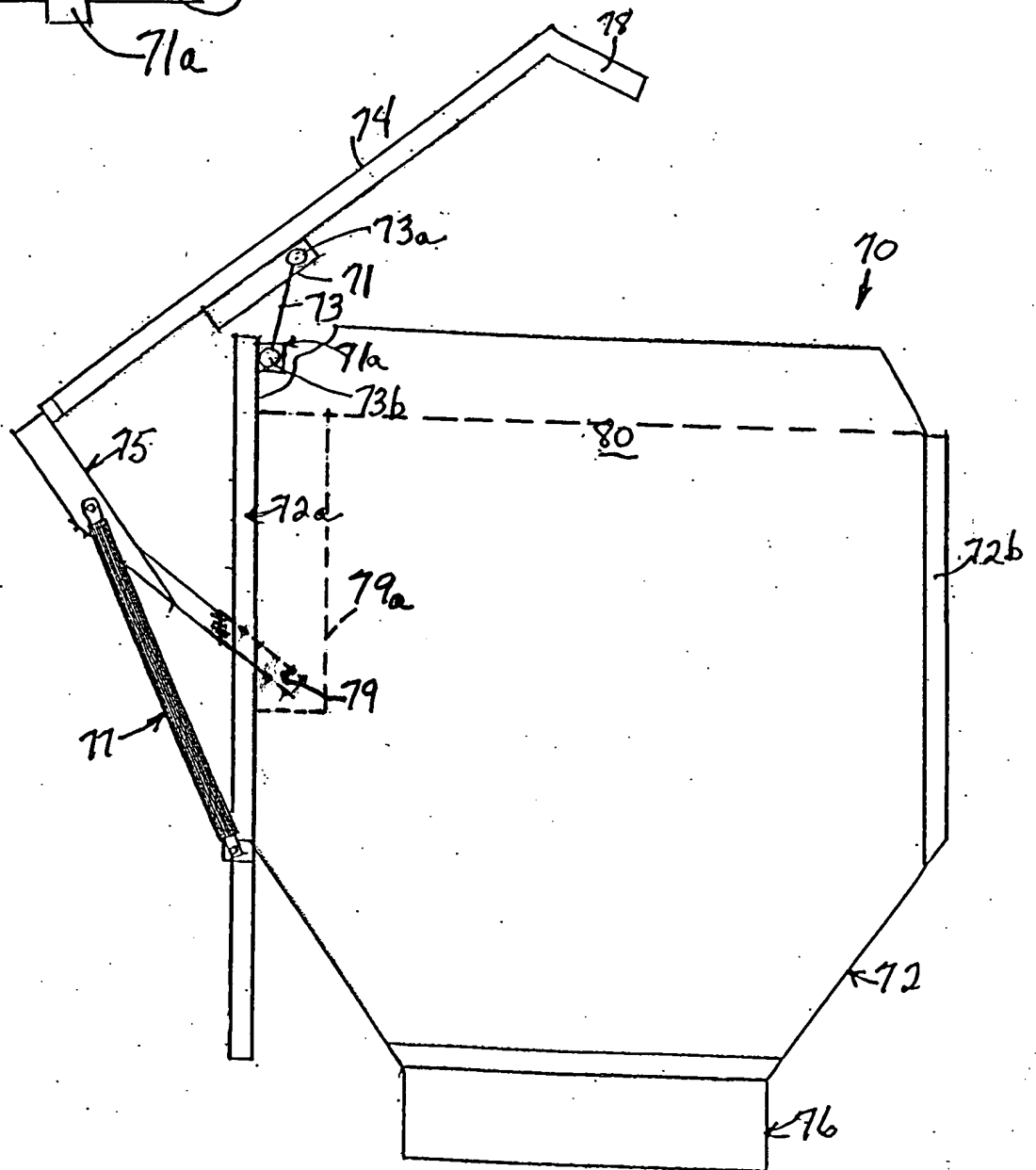
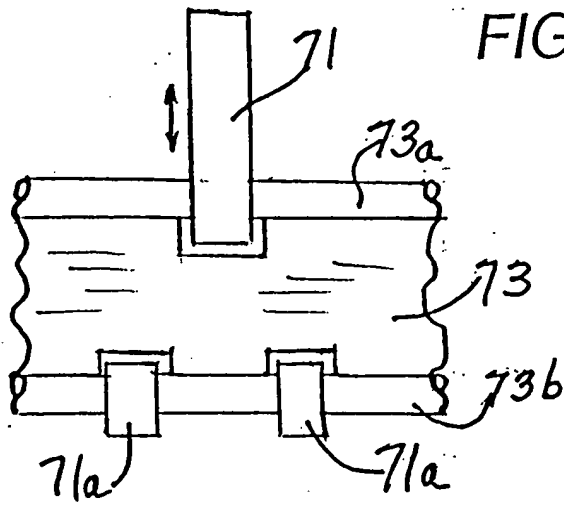
Neil F. Markva  
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The attached sheets of drawings includes changes to Figures 1, 11, and 14. These sheets, which include Fig. 1; Figs. 11 and 11a; and Fig. 14, replace the original sheets including Fig. 1; Figs. 11 and 11a; and Fig. 14. In Fig. 1 the numbers 6 indicate the area 6, and 16a indicates camera 16a are added as requested; in Fig. 11 the cover pivot axis 79 and pivot location housing mean 79a have been added for clarification; and in Fig. 14 the incorrect lead line for numeral 79 is deleted, and the upper pivot axis of the upper end section of piston mechanism 77 has been clarified.

Attachments: Three replacement sheets  
Three Annotated Sheets Showing Changes



*Prior Art*



**FIG. 11**

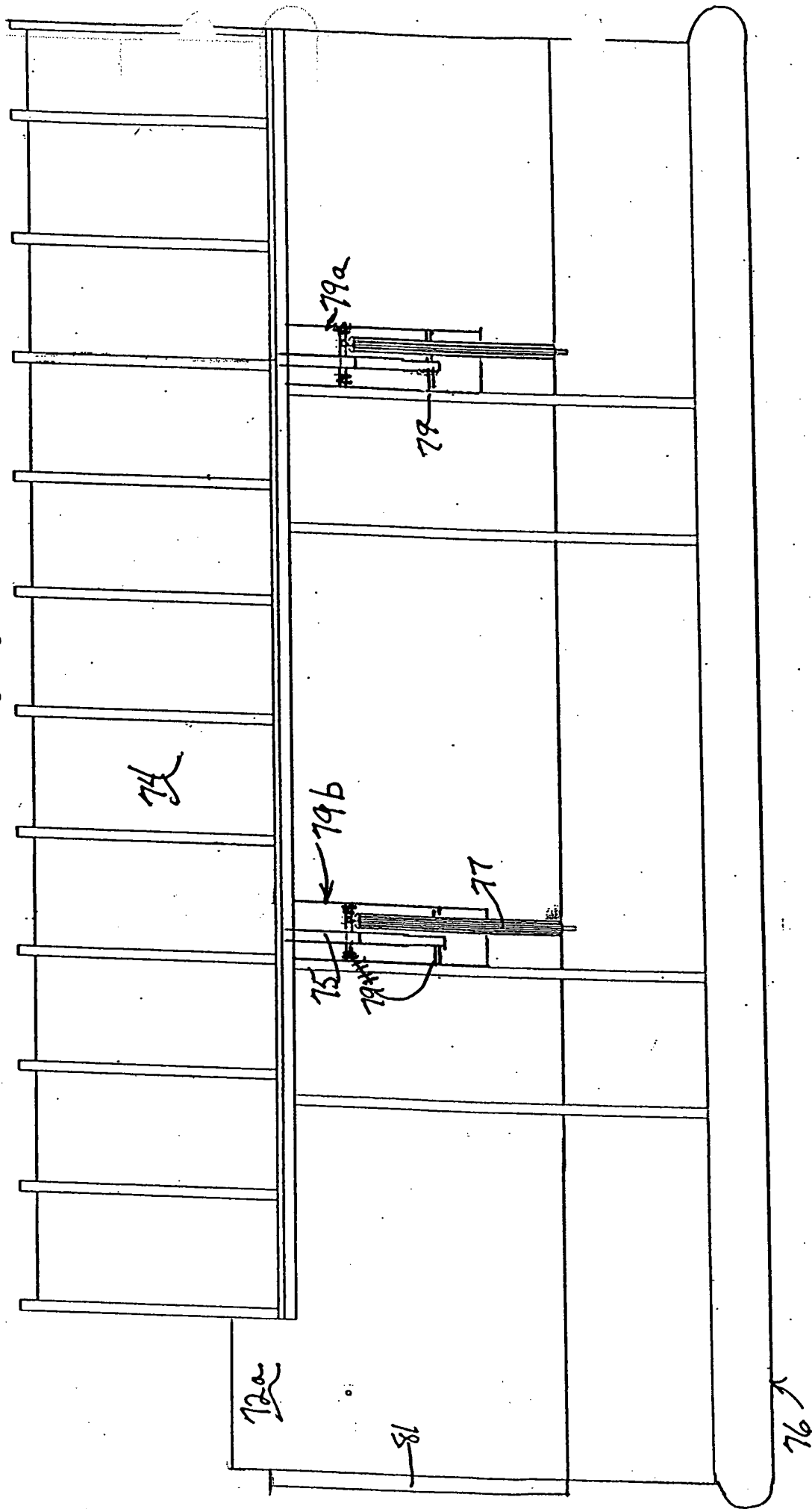


FIG. 14